

AMENDED IN SENATE SEPTEMBER 7, 2001

AMENDED IN SENATE JUNE 19, 2001

AMENDED IN ASSEMBLY APRIL 23, 2001

AMENDED IN ASSEMBLY MARCH 28, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1115

**Introduced by Committee on Revenue and Taxation (Corbett
(Chair), Harman (Vice Chair), Alquist, Aroner, Cedillo, Koretz,
Matthews, and Wyland)**

February 23, 2001

An act to amend Sections 17039, 17041, 17055, 17062, 17063, 17301, ~~17302~~, 17734, 17854, 17935, 17951, 17952, 17952.5, 17953, 17954, 17955, 23036, and 23453 of, to add Sections 17015.5, 17301.3, 17301.4, 17301.5, 17304, 17306, 17307, 19322.1, and 19556 to, and to repeal Sections 17303, 17310, and 17554 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1115, as amended, Committee on Revenue and Taxation. Taxation: residency requirements: part-year resident: AMT.

The Franchise Tax Board collects and administers the income taxes of California residents. Existing law provides formulas for determining the income tax owed by individuals that are part-year or non-California residents. Existing law is silent on the tax treatment of loss carryovers,

deferred deductions, and deferred income that vested prior to the time individuals became part-year or non-California residents.

This bill would revise and recast the computation of personal income tax with respect to part-year or non-California residence, and would, for that purpose specify the manner in which loss carryovers, deferred deductions, and deferred income are to be calculated in computing a part-year or non-California resident's California income tax liability. ~~In addition, this bill specifically allows part-year and non-California residents to apply the alimony deduction for all claims and refunds for all tax years for which the statute of limitations has not expired.~~

The Personal Income Tax Law and the Bank and Corporation Tax Law impose an alternative minimum tax that may be reduced by specified credits.

This bill would make technical and clarifying changes with respect to the ordering and allowance of those credits, as provided.

Existing law with respect to the administration of income and corporate taxes requires taxes to be paid, and claims for refunds to be made, prior to maintaining an action for illegally collected taxes.

This bill would provide that an otherwise valid claim for a refund shall be a claim only for purposes of tolling the statute of limitations under specified conditions, if the tax has not been paid in full.

Existing law authorizes the Franchise Tax Board to disclose tax returns and return information under specified conditions.

This bill would additionally authorize that disclosure to designated persons for use in actions or proceedings affecting the personnel rights of employees or former employees, as specified. An unauthorized disclosure by a person of the information received under this authority would subject that person to criminal penalties. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. Section 17015.5 is added to the Revenue and Taxation Code, to read:

17015.5. For purposes of Part 10.2 (commencing with Section 18401) and this part, the term “part-year resident” means a taxpayer who meets both of the following conditions during the same taxable year.

(a) Is a resident of this state during a portion of the taxable year.

(b) Is a nonresident of this state during a portion of the taxable year.

SEC. 2. Section 17039 of the Revenue and Taxation Code is amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term “net tax” means the tax imposed under either Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to lump-sum distributions) less the credits allowed by Section 17054 (relating to personal exemption credits) and any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560. Notwithstanding the preceding sentence, the “net tax” shall not be less than the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions), if any. Credits shall be allowed against “net tax” in the following order:

(1) Credits that do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).

(2) Credits that contain carryover provisions but do not contain refundable provisions, except for those that are allowed to reduce “net tax” below the tentative minimum tax, as defined by Section 17062.

(3) Credits that contain both carryover and refundable provisions.

(4) The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).

(5) Credits that are allowed to reduce “net tax” below the tentative minimum tax, as defined by Section 17062.

(6) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(7) Credits that contain refundable provisions but do not contain carryover provisions.

The order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17061 (relating to refunds pursuant to the Unemployment Insurance Code) and 19002 (relating to tax withholding), the credits provided in those sections shall be allowed in the order provided in paragraph (6) of subdivision (a).

(c) (1) Notwithstanding any other provision of this part, no tax credit shall reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions) below the tentative minimum tax, as defined by Section 17062, except the following credits:

(A) The credit allowed by Section 17052.2 (relating to teacher retention tax credit).

(B) The credit allowed by former Section 17052.4 (relating to solar energy).

(C) The credit allowed by former Section 17052.5 (relating to solar energy).

(D) The credit allowed by Section 17052.5 (relating to solar energy).

(E) The credit allowed by Section 17052.12 (relating to research expenses).

(F) The credit allowed by former Section 17052.13 (relating to sales and use tax credit).

(G) The credit allowed by Section 17052.15 (relating to Los Angeles Revitalization Zone sales tax credit).

(H) The credit allowed by Section 17053.5 (relating to the renter's credit).

(I) The credit allowed by former Section 17053.8 (relating to enterprise zone hiring credit).

(J) The credit allowed by former Section 17053.10 (relating to Los Angeles Revitalization Zone hiring credit).

(K) The credit allowed by former Section 17053.11 (relating to program area hiring credit).

(L) For each taxable year beginning on or after January 1, 1994, the credit allowed by former Section 17053.17 (relating to Los Angeles Revitalization Zone hiring credit).

1 (M) The credit allowed by Section 17053.33 (relating to
2 targeted tax area sales or use tax credit).

3 (N) The credit allowed by Section 17053.34 (relating to
4 targeted tax area hiring credit).

5 (O) The credit allowed by Section 17053.49 (relating to
6 qualified property).

7 (P) The credit allowed by Section 17053.70 (relating to
8 enterprise zone sales or use tax credit).

9 (Q) The credit allowed by Section 17053.74 (relating to
10 enterprise zone hiring credit).

11 (R) The credit allowed by Section 17054 (relating to credits for
12 personal exemption).

13 (S) The credit allowed by Section 17057 (relating to clinical
14 testing expenses).

15 (T) The credit allowed by Section 17058 (relating to
16 low-income housing).

17 (U) The credit allowed by Section 17061 (relating to refunds
18 pursuant to the Unemployment Insurance Code).

19 (V) Credits for taxes paid to other states allowed by Chapter 12
20 (commencing with Section 18001).

21 (W) The credit allowed by Section 19002 (relating to tax
22 withholding).

23 (2) Any credit that is partially or totally denied under paragraph
24 (1) shall be allowed to be carried over and applied to the net tax in
25 succeeding taxable years, if the provisions relating to that credit
26 include a provision to allow a carryover when that credit exceeds
27 the net tax.

28 (d) Unless otherwise provided, any remaining carryover of a
29 credit allowed by a section that has been repealed or made
30 inoperative shall continue to be allowed to be carried over under
31 the provisions of that section as it read immediately prior to being
32 repealed or becoming inoperative.

33 (e) (1) Unless otherwise provided, if two or more taxpayers
34 (other than husband and wife) share in costs that would be eligible
35 for a tax credit allowed under this part, each taxpayer shall be
36 eligible to receive the tax credit in proportion to his or her
37 respective share of the costs paid or incurred.

38 (2) In the case of a partnership, the credit shall be allocated
39 among the partners pursuant to a written partnership agreement in

1 accordance with Section 704 of the Internal Revenue Code,
2 relating to partner's distributive share.

3 (3) In the case of a husband and wife who file separate returns,
4 the credit may be taken by either or equally divided between them.

5 (f) Unless otherwise provided, in the case of a partnership, any
6 credit allowed by this part shall be computed at the partnership
7 level, and any limitation on the expenses qualifying for the credit
8 or limitation upon the amount of the credit shall be applied to the
9 partnership and to each partner.

10 (g) (1) With respect to any taxpayer that directly or indirectly
11 owns an interest in a business entity that is disregarded for tax
12 purposes pursuant to Section 23038 and any regulations
13 thereunder, the amount of any credit or credit carryforward
14 allowable for any taxable year attributable to the disregarded
15 business entity shall be limited in accordance with paragraphs (2)
16 and (3).

17 (2) The amount of any credit otherwise allowed under this part,
18 including any credit carryover from prior years, that may be
19 applied to reduce the taxpayer's "net tax," as defined in
20 subdivision (a), for the taxable year shall be limited to an amount
21 equal to the excess of the taxpayer's regular tax (as defined in
22 Section 17062), determined by including income attributable to
23 the disregarded business entity that generated the credit or credit
24 carryover, over the taxpayer's regular tax (as defined in Section
25 17062), determined by excluding the income attributable to that
26 disregarded business entity. No credit shall be allowed if the
27 taxpayer's regular tax (as defined in Section 17062), determined
28 by including the income attributable to the disregarded business
29 entity, is less than the taxpayer's regular tax (as defined in Section
30 17062), determined by excluding the income attributable to the
31 disregarded business entity.

32 (3) If the amount of a credit allowed pursuant to the section
33 establishing the credit exceeds the amount allowable under this
34 subdivision in any taxable year, the excess amount may be carried
35 over to subsequent taxable years pursuant to subdivisions (c) and
36 (d).

37 (h) (1) Unless otherwise specifically provided, in the case of
38 a taxpayer that is a partner or shareholder of an eligible
39 pass-through entity described in paragraph (2), any credit passed
40 through to the taxpayer in the taxpayer's first taxable year



beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.

(2) For purposes of this subdivision, “eligible pass-through entity” means any partnership or S corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year the credit is operative.

(3) This subdivision shall apply to credits that become inoperative on or after the operative date of the act adding this subdivision.

SEC. 2.5. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of this state for the entire taxable year and for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over \$3,650	1% of the taxable income
Over \$3,650 but not	
over \$8,650	\$36.50 plus 2% of the excess over
	\$3,650
Over \$8,650 but not	
over \$13,650	\$136.50 plus 4% of the excess over
	\$8,650
Over \$13,650 but not	
over \$18,950	\$336.50 plus 6% of the excess over
	\$13,650
Over \$18,950 but not	
over \$23,950	\$654.50 plus 8% of the excess over
	\$18,950
Over \$23,950	\$1,054.50 plus 9.3% of the excess
	over \$23,950

(b) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident, except the head of a household as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the “taxable income of a nonresident or part-year resident,” as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(c) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state who is not a part-year resident for that taxable year, when the resident is the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income computed for the taxable year as if the resident were a resident of the state for the entire taxable year and for all prior taxable years for carryover items, deferred income, suspended losses, or suspended deductions:

If the taxable income is:	The tax is:
Not over \$7,300	1% of the taxable income
Over \$7,300 but not over \$17,300	\$73 plus 2% of the excess over \$7,300
Over \$17,300 but not over \$22,300	\$273 plus 4% of the excess over \$17,300
Over \$22,300 but not over \$27,600	\$473 plus 6% of the excess over \$22,300

Over \$27,600 but not	
over \$32,600	\$791 plus 8% of the excess
	over \$27,600
Over \$32,600	\$1,191 plus 9.3% of the excess over
	\$32,600

(d) (1) There shall be imposed for each taxable year upon the taxable income of every nonresident or part-year resident when the nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax as calculated in paragraph (2).

(2) The tax imposed under paragraph (1) shall be calculated by multiplying the “taxable income of a nonresident or part-year resident,” as defined in subdivision (i), by a rate (expressed as a percentage) equal to the tax computed under subdivision (a) on the entire taxable income of the nonresident or part-year resident as if the nonresident or part-year resident were a resident of this state for the taxable year and as if the nonresident or part-year resident were a resident of this state for all prior taxable years for any carryover items, deferred income, suspended losses, or suspended deductions, divided by the amount of that income.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) (1) Section 1 (g) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent’s income, shall apply, except as otherwise provided.

(2) Section 1(g)(7)(B)(ii)(II) of the Internal Revenue Code, relating to income included on parent’s return, is modified, for purposes of this part, by substituting “1 percent” for “15 percent.”

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from

1 June of the prior calendar year to June of the current calendar year,
2 no later than August 1 of the current calendar year.

3 (2) The Franchise Tax Board shall do both of the following:

4 (A) Compute an inflation adjustment factor by adding 100
5 percent to the percentage change figure that is furnished pursuant
6 to paragraph (1) and dividing the result by 100.

7 (B) Multiply the preceding taxable year income tax brackets by
8 the inflation adjustment factor determined in subparagraph (A)
9 and round off the resulting products to the nearest one dollar (\$1).

10 (i) (1) For purposes of this part, the term “taxable income of
11 a nonresident or part-year resident” includes each of the
12 following:

13 (A) For any part of the taxable year during which the taxpayer
14 was a resident of this state (as defined by Section 17014), all items
15 of gross income and all deductions, regardless of source.

16 (B) For any part of the taxable year during which the taxpayer
17 was not a resident of this state, gross income and deductions
18 derived from sources within this state, determined in accordance
19 with Article 9 of Chapter 3 (commencing with Section 17031 and
20 Chapter 11 (commencing with Section 17951).

21 (2) For purposes of computing “taxable income of a
22 nonresident or part-year resident” under paragraph (1), the
23 amount of any net operating loss sustained in any taxable year
24 during any part of which the taxpayer was not a resident of this
25 state shall be limited to the sum of the following:

26 (A) The amount of the loss attributable to the part of the taxable
27 year in which the taxpayer was a resident.

28 (B) The amount of the loss which, during the part of the taxable
29 year the taxpayer is not a resident, is attributable to California
30 source income and deductions allowable in arriving at taxable
31 income of a nonresident or part-year resident.

32 (3) For purposes of computing “taxable income of a
33 nonresident or part-year resident” under paragraph (1), any
34 carryover items, deferred income, suspended losses, or suspended
35 deductions shall only be includible or allowable to the extent that
36 the carryover item, deferred income, suspended loss, or suspended
37 deduction was derived from sources within this state.

38 SEC. 3. Section 17055 of the Revenue and Taxation Code is
39 amended to read:



17055. (a) Any individual who is a nonresident or a part-year resident shall be allowed all credits provided under this part against the “net tax” (as defined by Section 17039), except those described in subdivision (b) and in Section 17053.5 (relating to the renter’s credit), and Section 18002 (relating to taxes paid to another state), in the same proportion as the ratio that “taxable income of a nonresident or part-year resident” computed under paragraph (1) of subdivision (i) of Section 17041 bears to “total taxable income” (as defined in Section 17301.5).

(b) Credits allowed under this part which are conditional upon a transaction occurring wholly within California shall be allowed in their entirety.

SEC. 4. Section 17062 of the Revenue and Taxation Code is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, before reduction for any credits against the tax, less any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560.

(3) (A) The provisions of Section 55(b)(1) of the Internal Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to the following percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, before reduction for any credits against the tax:

(i) For any taxable year beginning on or after January 1, 1991, and before January 1, 1996, 8.5 percent.

(ii) For any taxable year beginning on or after January 1, 1996, 7 percent.

1 (B) In the case of a nonresident or part-year resident, the
2 tentative minimum tax shall be computed by multiplying the
3 alternative minimum taxable income of the nonresident or
4 part-year resident, as defined in subparagraph (C), by a rate
5 (expressed as a percentage) equal to the tax computed under
6 subdivision (b) on the alternative minimum taxable income of the
7 nonresident or part-year resident as if the nonresident or part-year
8 resident were a resident of this state for the taxable year and as if
9 the nonresident or part-year resident were a resident of this state
10 for all prior taxable years for any carryover items, deferred
11 income, suspended losses, or suspended deductions, divided by
12 the amount of that income.

13 (C) For purposes of this section, the term “alternative
14 minimum taxable income of a nonresident or part-year resident”
15 includes each of the following:

16 (i) For any period during which the taxpayer was a resident of
17 this state (as defined by Section 17014), all items of alternative
18 minimum taxable income (as modified for purposes of this
19 chapter), regardless of source.

20 (ii) For any period during which the taxpayer was not a resident
21 of this state, alternative minimum taxable income (as modified for
22 purposes of this chapter) which were derived from sources within
23 this state, determined in accordance with Article 9 of Chapter 3
24 (commencing with Section 17301) and Chapter 11 (commencing
25 with Section 17951).

26 (iii) For purposes of computing “alternative minimum taxable
27 income of a nonresident or part-year resident,” any carryover
28 items, deferred income, suspended losses, or suspended
29 deductions shall only be allowable to the extent that the carryover
30 item, suspended loss, or suspended deduction was derived from
31 sources within this state.

32 (4) The provisions of Section 55(b)(2) of the Internal Revenue
33 Code, relating to alternative minimum taxable income, shall be
34 modified to provide that alternative minimum taxable income
35 shall not include the income, adjustments, and items of tax
36 preference attributable to any trade or business of a qualified
37 taxpayer.

38 (A) For purposes of this paragraph, “qualified taxpayer”
39 means a taxpayer who meets both of the following:



1 (i) Is the owner of, or has an ownership interest in, a trade or
2 business.

3 (ii) Has aggregate gross receipts, less returns and allowances,
4 of less than one million dollars (\$1,000,000) during the taxable
5 year from all trades or businesses of which the taxpayer is the
6 owner or has an ownership interest, in the amount of that
7 taxpayer's proportionate interest in each trade or business.

8 (B) For purposes of this paragraph, "aggregate gross receipts,
9 less returns and allowances" means the sum of the gross receipts
10 of the trades or businesses which the taxpayer owns and the
11 proportionate interest of the gross receipts of the trades or
12 businesses which the taxpayer owns and of passthrough entities in
13 which the taxpayer holds an interest.

14 (C) For purposes of this paragraph, "gross receipts, less returns
15 and allowances" means the sum of the gross receipts from the
16 production of business income, as defined in subdivision (a) of
17 Section 25120, and the gross receipts from the production of
18 nonbusiness income, as defined in subdivision (d) of Section
19 25120.

20 (D) For purposes of this paragraph, "proportionate interest"
21 means:

22 (i) In the case of a passthrough entity which reports a profit for
23 the taxable ~~or income~~ year, the taxpayer's profit interest in the
24 entity at the end of the taxpayer's taxable year.

25 (ii) In the case of a passthrough entity which reports a loss for
26 the taxable ~~or income~~ year, the taxpayer's loss interest in the entity
27 at the end of the taxpayer's taxable year.

28 (iii) In the case of a passthrough entity which is sold or
29 liquidates during the taxable ~~or income~~ year, the taxpayer's capital
30 account interest in the entity at the time of the sale or liquidation.

31 (E) (i) For purposes of this paragraph, "proportionate
32 interest" includes an interest in a passthrough entity.

33 (ii) For purposes of this paragraph, "passthrough entity"
34 means any of the following:

35 (I) A partnership, as defined by Section 17008.

36 (II) An S corporation, as provided in Chapter 4.5 (commencing
37 with Section 23800) of Part 11.

38 (III) A regulated investment company, as provided in Section
39 24871.

1 (IV) A real estate investment trust, as provided in Section
2 24872.

3 (V) A real estate mortgage investment conduit, as provided in
4 Section 24874.

5 (5) For taxable years beginning on or after January 1, 1998,
6 Section 55(d)(1) of the Internal Revenue Code, relating to
7 exemption amount for taxpayers other than corporations is
8 modified, for purposes of this part, to provide the following
9 exemption amounts in lieu of those contained therein:

10 (A) Fifty-seven thousand two hundred sixty dollars (\$57,260)
11 in the case of either of the following:

12 (i) A joint return.

13 (ii) A surviving spouse.

14 (B) Forty-two thousand nine hundred forty-five dollars
15 (\$42,945) in the case of an individual who is both of the following:

16 (i) Not a married individual.

17 (ii) Not a surviving spouse.

18 (C) Twenty-eight thousand six hundred thirty dollars
19 (\$28,630) in the case of either of the following:

20 (i) A married individual who files a separate return.

21 (ii) An estate or trust.

22 (6) For taxable years beginning on or after January 1, 1998,
23 Section 55(d)(3) of the Internal Revenue Code, relating to the
24 phaseout of exemption amount for taxpayers other than
25 corporations is modified, for purposes of this part, to provide the
26 following phaseout of exemption amounts in lieu of those
27 contained therein:

28 (A) Two hundred fourteen thousand seven hundred
29 twenty-five dollars (\$214,725) in the case of a taxpayer described
30 in subparagraph (A) of paragraph (5).

31 (B) One hundred sixty-one thousand forty-four dollars
32 (\$161,044) in the case of a taxpayer described in subparagraph (B)
33 of paragraph (5).

34 (C) One hundred seven thousand three hundred sixty-two
35 dollars (\$107,362) in the case of a taxpayer described in
36 subparagraph (C) of paragraph (5).

37 (7) For each taxable year beginning on or after January 1, 1999,
38 the Franchise Tax Board shall recompute the exemption amounts
39 prescribed in paragraph (5) and the phaseout of exemption

amounts prescribed in paragraph (6). Those computations shall be made as follows:

(A) The California Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(B) The Franchise Tax Board shall do both of the following:

(i) Compute an inflation adjustment factor by adding 100 percent to the percentage change figure that is furnished pursuant to subparagraph (A) and dividing the result by 100.

(ii) Multiply the preceding taxable year exemption amounts and the phaseout of exemption amounts by the inflation adjustment factor determined in clause (i) and round off the resulting products to the nearest one dollar (\$1).

(c) (1) (A) Section 56(a)(6) of the Internal Revenue Code as in effect on January 1, 1997, relating to installment sales of certain property, shall not apply to payments received in taxable years beginning on or after January 1, 1997, with respect to dispositions occurring in taxable years beginning after December 31, 1987.

(B) This paragraph shall not apply to taxable years beginning on or after January 1, 1998.

(2) Section 56(b)(1)(E) of the Internal Revenue Code, relating to standard deduction and deduction for personal exemptions not allowed, is modified, for purposes of this part, to deny the standard deduction allowed by Section 17073.5.

(3) Section 56(b)(3) of the Internal Revenue Code, relating to treatment of incentive stock options, shall be modified to additionally provide the following:

(A) Section 421 of the Internal Revenue Code shall not apply to the transfer of stock acquired pursuant to the exercise of a California qualified stock option under Section 17502.

(B) Section 422(c)(2) of the Internal Revenue Code shall apply in any case where the disposition and inclusion of a California qualified stock option for purposes of this chapter are within the same taxable year and that section shall not apply in any other case.

(C) The adjusted basis of any stock acquired by the exercise of a California qualified stock option shall be determined on the basis of the treatment prescribed by this paragraph.

1 (d) The provisions of Section 57(a)(5) of the Internal Revenue
2 Code, relating to tax-exempt interest shall not apply.

3 (e) (1) Section 57(a) of the Internal Revenue Code, relating to
4 items of tax preference, is modified to include as an item of tax
5 preference the amount by which the deduction allowable under
6 Section 170 of the Internal Revenue Code, relating to charitable
7 contributions or gifts, or Section 642(c) of the Internal Revenue
8 Code, relating to deduction for amounts paid or permanently set
9 aside for a charitable purpose, would be reduced if all capital gain
10 property were taken into account at its adjusted basis.

11 (2) For purposes of paragraph (1), the term “capital gain
12 property” has the meaning given to that term by Section
13 170(b)(1)(C)(iv) of the Internal Revenue Code. That term shall not
14 include any property to which an election under Section
15 170(b)(1)(C)(iii) of the Internal Revenue Code applies.

16 (f) Section 57(a) of the Internal Revenue Code, relating to
17 items of tax preference, is modified to include as an item of tax
18 preference an amount equal to one-half of the amount excluded
19 from gross income for the taxable year under Section 18152.5.

20 (g) The provisions of Section 59(a) of the Internal Revenue
21 Code, relating to the alternative minimum tax foreign tax credit,
22 shall not apply.

23 SEC. 4.5. Section 17063 of the Revenue and Taxation Code
24 is amended to read:

25 17063. (a) There shall be allowed as a credit against the net
26 tax (as defined by Section 17039) for any taxable year an amount
27 equal to the minimum tax credit for that taxable year.

28 (b) For purposes of subdivision (a), the minimum tax credit
29 shall be determined in accordance with Section 53 of the Internal
30 Revenue Code, except as otherwise provided in this part.

31 (c) For purposes of this chapter, the amount determined under
32 Section 53(c)(1) of the Internal Revenue Code shall be the regular
33 tax as defined by paragraph (2) of subdivision (b) of Section
34 17062, reduced by the sum of the credits allowable under this part,
35 other than:

36 (1) The credits described in paragraph (7) of subdivision (a) of
37 Section 17039.

38 (2) Any credit which reduces the tax below the tentative
39 minimum tax, as defined by Section 17062.

(d) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code, relating to credit not allowed for exclusion preferences, is modified to include subdivision (f) of Section 17062, as a specified item.

(e) Section 53(d)(1)(B)(ii)(II) of the Internal Revenue Code, relating to credit not allowed for exclusion preferences, is modified to include subdivision (e) of Section 17062, as a specified item.

SEC. 5. Section 17301 of the Revenue and Taxation Code is amended to read:

17301. For purposes of this part, in the case of a nonresident or part-year resident, the proper apportionment and allocation of the deductions in computing “taxable income of a nonresident or part-year resident” computed under paragraph (1) of subdivision (i) of Section 17041 with respect to sources of income within and without the state shall be determined under rules and regulations prescribed by the Franchise Tax Board.

SEC. 6. Section 17301.3 is added to the Revenue and Taxation Code, to read:

17301.3. For purposes of this part, in the case of a nonresident or part-year resident, the term “California adjusted gross income” means adjusted gross income for the entire year derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951) and this article.

SEC. 7. Section 17301.4 is added to the Revenue and Taxation Code, to read:

17301.4. For purposes of this part, in the case of a nonresident or part-year resident, the term “total adjusted gross income” means adjusted gross income for the entire year determined under Section 17072 regardless of source, taking into account paragraph (2) of subdivision (h) of Section 17024.5 and Section 17203.

SEC. 8. Section 17301.5 is added to the Revenue and Taxation Code, to read:

17301.5. For purposes of this part, in the case of a nonresident or part-year resident, the term “total taxable income” means taxable income for the entire year determined under Section 17073 regardless of source.

~~SEC. 9. Section 17302 of the Revenue and Taxation Code is amended to read:~~

~~17302. In the case of a nonresident or part-year resident, the deduction provided by Section 215 of the Internal Revenue Code, relating to alimony payments, shall be allowed in computing “taxable income of a nonresident or part-year resident” in the ratio (not to exceed 1.00) that California adjusted gross income (as defined in Section 17301.3), computed without regard to the alimony deduction, bears to total adjusted gross income (as defined in Section 17301.4), computed without regard to the alimony deduction.~~

SEC. 10. Section 17303 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 17304 is added to the Revenue and Taxation Code, to read:

17304. In the case of a nonresident or part-year resident, itemized deductions allowed as a deduction for the taxable year under Section 63 of the Internal Revenue Code, as modified by Section 17073, or the standard deduction (as provided in Section 17073.5), shall be allowed in computing “taxable income of a nonresident or part-year resident” in the ratio (not to exceed 1.00) that California adjusted gross income (as defined in Section 17301.3) bears to total adjusted gross income (as defined in Section 17301.4).

SEC. 12. Section 17306 is added to the Revenue and Taxation Code, to read:

17306. In the case of a nonresident or part-year resident, in computing “taxable income of a nonresident or part-year resident” under paragraph (1) of subdivision (i) of Section 17041, references to “adjusted gross income” for purposes of computing limitations based upon adjusted gross income, shall mean “California adjusted gross income” (as defined in Section 17301.3) for the same taxable year without regard to the limitation used pursuant to paragraph (2) of subdivision (h) of Section 17024.5 in computing “total adjusted gross income” (as defined in Section 17301.4) for that taxable year.

SEC. 13. Section 17307 is added to the Revenue and Taxation Code, to read:

17307. In the case of a nonresident or part-year resident, in computing “taxable income of a nonresident or part-year resident” under paragraph (1) of subdivision (i) of Section 17041, for purposes of computing limitations on the deductions described

in this section, any reference to “compensation” or “earned income” shall be a reference to the amount of “compensation” or “earned income” required to be included in computing “California adjusted gross income” (as defined in Section 17301.3) for the same taxable year without regard to the limitation used pursuant to Section 17203 in computing “total adjusted gross income” (as defined in Section 17301.4) for that taxable year.

(a) The deduction allowed by Section 219 of the Internal Revenue Code.

(b) The deductions allowed by Sections 162(1) and 404 of the Internal Revenue Code in the case of an individual who is an employee within the meaning of Section 401(c)(1) of the Internal Revenue Code.

~~SEC. 14. Section 17935 of the Revenue and Taxation Code is amended to read:~~

~~17935. (a) For each taxable year beginning on or after January 1, 1997, every limited partnership doing business in this state (as defined by Section 23101) and required to file a return under Section 18633 shall pay annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in Section 23153.~~

~~(b) (1) In addition to any limited partnership that is doing business in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, every limited partnership that has executed, acknowledged, and filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 of the Corporations Code, and every foreign limited partnership that has registered with the Secretary of State pursuant to Section 15692 of the Corporations Code, shall pay annually the tax prescribed in subdivision (a). The tax shall be paid for each taxable year, or part thereof, until a certificate of cancellation is filed on behalf of the limited partnership with the office of the Secretary of State pursuant to Section 15623 or 15696 of the Corporations Code.~~

~~(2) If a taxpayer files a return with the Franchise Tax Board that is designated its final return, that board shall notify the taxpayer that the tax imposed by this chapter is due annually until a certificate of cancellation is filed with the Secretary of State pursuant to Section 15623 or 15696 of the Corporations Code.~~

~~(c) The tax imposed by this chapter shall be due and payable on the date the return is required to be filed under former Section 18432 or 18633.~~

~~(d) For purposes of this section, “limited partnership” means any partnership formed by two or more persons under the laws of this state or any other jurisdiction and having one or more general partners and one or more limited partners.~~

~~(e) Notwithstanding subdivision (b), any limited partnership that ceased doing business prior to January 1, 1997, filed a final return with the Franchise Tax Board for a taxable year ending before January 1, 1997, and filed a certificate of dissolution with the Secretary of State pursuant to Section 15623 of the Corporations Code prior to January 1, 1997, shall not be subject to the tax imposed by this chapter for any period following the date the certificate of dissolution was filed with the Secretary of State, but only if the limited partnership files a certificate of cancellation with the Secretary of State pursuant to Section 15623 of the Corporations Code. In the case where a notice of proposed deficiency assessment of tax or a notice of tax due (whichever is applicable) is mailed after January 1, 2001, the first sentence of this subdivision shall not apply unless the certificate of cancellation is filed with the Secretary of State not later than 60 days after the date of the mailing of the notice.~~

~~SEC. 15.—Section 17310 of the Revenue and Taxation Code is repealed.~~

~~SEC. 16.—~~

~~SEC. 15. Section 17554 of the Revenue and Taxation Code is repealed.~~

~~SEC. 17.—~~

~~SEC. 16. Section 17734 of the Revenue and Taxation Code is amended to read:~~

~~17734. For purposes of computing “taxable income of a nonresident or part-year resident” under paragraph (1) of subdivision (i) of Section 17041, in the case of a nonresident beneficiary, income and deduction derived through an estate or trust shall be included in that computation only to the extent that the income or deduction is derived by the estate or trust from sources within this state.~~

~~SEC. 17. Section 17935 of the Revenue and Taxation Code is amended to read:~~

17935. (a) For each taxable year beginning on or after January 1, 1997, every limited partnership doing business in this state (as defined by Section 23101) and required to file a return under Section 18633 shall pay annually to this state a tax for the privilege of doing business in this state in an amount equal to the applicable amount specified in Section 23153.

(b) (1) In addition to any limited partnership that is doing business in this state and therefore is subject to the tax imposed by subdivision (a), for each taxable year beginning on or after January 1, 1997, every limited partnership that has executed, acknowledged, and filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 of the Corporations Code, and every foreign limited partnership that has registered with the Secretary of State pursuant to Section 15692 of the Corporations Code, shall pay annually the tax prescribed in subdivision (a). The tax shall be paid for each taxable year, or part thereof, until a certificate of cancellation is filed on behalf of the limited partnership with the office of the Secretary of State pursuant to Section 15623 or 15696 of the Corporations Code.

(2) If a taxpayer files a return with the Franchise Tax Board that is designated its final return, that board shall notify the taxpayer that the tax imposed by this chapter is due annually until a certificate of cancellation is filed with the Secretary of State pursuant to Section 15623 or 15696 of the Corporations Code.

(c) The tax imposed by this chapter shall be due and payable on the date the return is required to be filed under former Section 18432 or 18633.

(d) For purposes of this section, “limited partnership” means any partnership formed by two or more persons under the laws of this state or any other jurisdiction and having one or more general partners and one or more limited partners.

(e) Notwithstanding subdivision (b), any limited partnership that ceased doing business prior to January 1, 1997, filed a final return with the Franchise Tax Board for a taxable year ending before January 1, 1997, and filed a certificate of dissolution with the Secretary of State pursuant to Section 15623 of the Corporations Code prior to January 1, 1997, shall not be subject to the tax imposed by this chapter for any period following the date the certificate of dissolution was filed with the Secretary of State, but only if the limited partnership files a certificate of cancellation

1 with the Secretary of State pursuant to Section 15623 of the
2 Corporations Code. In the case where a notice of proposed
3 deficiency assessment of tax or a notice of tax due (whichever is
4 applicable) is mailed after January 1, 2001, the first sentence of
5 this subdivision shall not apply unless the certificate of
6 cancellation is filed with the Secretary of State not later than 60
7 days after the date of the mailing of the notice.

8 SEC. 18. Section 17854 of the Revenue and Taxation Code is
9 amended to read:

10 17854. For purposes of computing “taxable income of a
11 nonresident or part-year resident” under paragraph (1) of
12 subdivision (i) of Section 17041, in the case of a nonresident
13 partner, guaranteed payments, as defined by Section 707(c) of the
14 Internal Revenue Code, shall be included in that computation as
15 gross income from sources within this state in the same manner as
16 if those payments were a distributive share of that partnership.

17 SEC. 19. Section 17951 of the Revenue and Taxation Code is
18 amended to read:

19 17951. For purposes of computing “taxable income of a
20 nonresident or part-year resident” under paragraph (1) of
21 subdivision (i) of Section 17041, in the case of nonresident
22 taxpayers the gross income includes only the gross income from
23 sources within this state.

24 SEC. 20. Section 17952 of the Revenue and Taxation Code is
25 amended to read:

26 17952. For purposes of computing “taxable income of a
27 nonresident or part-year resident” under paragraph (1) of
28 subdivision (i) of Section 17041, income of nonresidents from
29 stocks, bonds, notes, or other intangible personal property is not
30 income from sources within this state unless the property has
31 acquired a business situs in this state, except that if a nonresident
32 buys or sells such property in this state or places orders with
33 brokers in this state to buy or sell such property so regularly,
34 systematically, and continuously as to constitute doing business in
35 this state, the profit or gain derived from such activity is income
36 from sources within this state irrespective of the situs of the
37 property.

38 SEC. 21. Section 17952.5 of the Revenue and Taxation Code
39 is amended to read:



17952.5. (a) For purposes of computing “taxable income of a nonresident or part-year resident” under paragraph (1) of subdivision (i) of Section 17041, gross income of a nonresident, as defined in Section 17015, from sources within this state shall not include “qualified retirement income” received on or after January 1, 1996, for any part of the taxable year during which the taxpayer was not a resident of this state.

(b) For purposes of this section, “qualified retirement income” means income from any of the following:

(1) A qualified trust under Section 401(a) of the Internal Revenue Code that is exempt under Section 501(a) of the Internal Revenue Code from taxation.

(2) A simplified employee pension as defined in Section 408(k) of the Internal Revenue Code.

(3) An annuity plan described in Section 403(a) of the Internal Revenue Code.

(4) An annuity contract described in Section 403(b) of the Internal Revenue Code.

(5) An individual retirement plan described in Section 7701(a)(37) of the Internal Revenue Code.

(6) An eligible deferred compensation plan as defined in Section 457 of the Internal Revenue Code.

(7) A governmental plan as defined in Section 414(d) of the Internal Revenue Code.

(8) A trust described in Section 501(c)(18) of the Internal Revenue Code.

(9) Any plan, program, or arrangement described in Section 3121(v)(2)(C) of the Internal Revenue Code, if that income is either of the following:

(A) Part of a series of substantially equal periodic payments (not less frequently than annually) made for either of the following:

(i) The life or the life expectancy of the recipient (or the joint lives or joint life expectancies of the recipient and the designated beneficiary of the recipient).

(ii) A period of not less than 10 years.

(B) A payment received after termination of employment, under a plan, program, or arrangement to which that employment relates, maintained solely for the purpose of providing retirement benefits for employees in excess of the limitation imposed by

1 Section 401(a)(17), 401(k), 401(m), 402(g), 403(b), 408(k), or
2 415 of the Internal Revenue Code, or any combination of those
3 sections, or any other limitation on contributions or benefits in the
4 Internal Revenue Code on plans to which any of those sections
5 apply.

6 (10) Any retired or retainer pay of a member or former member
7 of a uniform service computed under Chapter 71 (commencing
8 with Sec. 1401) of Title 10 of the United States Code.

9 (c) This section shall apply only to any taxable year, or portion
10 thereof, that the provisions of Section 114 of Title 4 of the United
11 States Code, relating to limitation on state income taxation of
12 certain pension income, are effective.

13 (d) References to the Internal Revenue Code are subject to
14 paragraph (1) of subdivision (a) of Section 17024.5 which
15 identifies, for each taxable year, the effective date of the referenced
16 provisions of the Internal Revenue Code.

17 SEC. 22. Section 17953 of the Revenue and Taxation Code is
18 amended to read:

19 17953. For purposes of computing “taxable income of a
20 nonresident or part-year resident” under paragraph (1) of
21 subdivision (i) of Section 17041, income of estates and trusts
22 distributed or distributable to nonresident beneficiaries is income
23 from sources within this state only if distributed or distributable
24 out of income of the estate or trust derived from sources within this
25 state. For the purposes of this section, the nonresident beneficiary
26 shall be deemed to be the owner of intangible personal property
27 from which the income of the estate or trust is derived.

28 SEC. 23. Section 17954 of the Revenue and Taxation Code is
29 amended to read:

30 17954. For purposes of computing “taxable income of a
31 nonresident or part-year resident” under paragraph (1) of
32 subdivision (i) of Section 17041, except as provided in Section
33 25141, gross income from sources within and without this state
34 shall be allocated and apportioned under rules and regulations
35 prescribed by the Franchise Tax Board.

36 SEC. 24. Section 17955 of the Revenue and Taxation Code is
37 amended to read:

38 17955. (a) For purposes of computing “taxable income of a
39 nonresident or part-year resident” under paragraph (1) of
40 subdivision (i) of Section 17041, notwithstanding Sections 17951,



1 17952, and 17953, gross income of a nonresident (as defined in
2 Section 17015) from sources within this state shall not include
3 dividends, interest, or gains and losses from qualifying investment
4 securities if any of the following apply:

5 (1) In the case of an individual, with respect to the qualifying
6 investment securities, the taxpayer's only contact with this state is
7 through a broker, dealer, or investment adviser located in this state.

8 (2) In the case of a partner's distributive share of income from
9 qualifying investment securities, the partnership qualifies as an
10 investment partnership, whether or not the partnership has a usual
11 place of business located in this state.

12 (3) In the case of a beneficiary of a qualifying estate or trust, the
13 taxpayer's only contact with this state is through an investment
14 account managed by a corporate fiduciary located in this state.

15 (4) In the case of a unit holder in a regulated investment
16 company (as defined in Section 851 of the Internal Revenue
17 Code), to the extent of the dividends distributed by the regulated
18 investment company, whether or not the regulated investment
19 company has a principal place of business in this state.

20 (b) This section shall not apply to income derived from
21 investment activity that is interrelated with any trade or business
22 activity of the nonresident or an entity in which the nonresident
23 owns an interest in this state, whose primary activities are separate
24 and distinct from the acts of acquiring, managing, or disposing of
25 qualified investment securities, or if those securities were acquired
26 with working capital of a trade or business activity conducted in
27 this state in which the nonresident owns an interest.

28 (c) For purposes of this section:

29 (1) "Investment partnership" means a partnership that meets
30 both of the following requirements:

31 (A) No less than 90 percent of the partnership's cost of its total
32 assets consist of qualifying investment securities, deposits at banks
33 or other financial institutions, and office space and equipment
34 reasonably necessary to carry on its activities as an investment
35 partnership.

36 (B) No less than 90 percent of its gross income consists of
37 interest, dividends, and gains from the sale or exchange of
38 qualifying investment securities.

39 (2) "Qualifying estate or trust" means an estate or trust that
40 meets both of the following requirements:

1 (A) No less than 90 percent of the estate's or trust's cost of its
2 total assets consist of qualifying investment securities, deposits at
3 banks or other financial institutions, and office space and
4 equipment reasonably necessary to carry on its investment
5 activities.

6 (B) No less than 90 percent of its gross income consists of
7 interest, dividends, and gains from the sale or exchange of
8 qualifying investment securities.

9 (3) (A) "Qualifying investment securities" include all of the
10 following:

11 (i) Common stock, including preferred or debt securities
12 convertible into common stock, and preferred stock.

13 (ii) Bonds, debentures, and other debt securities.

14 (iii) Foreign and domestic currency deposits or equivalents and
15 securities convertible into foreign securities.

16 (iv) Mortgage- or asset-backed securities secured by federal,
17 state, or local governmental agencies.

18 (v) Repurchase agreements and loan participations.

19 (vi) Foreign currency exchange contracts and forward and
20 futures contracts on foreign currencies.

21 (vii) Stock and bond index securities and futures contracts, and
22 other similar financial securities and futures contracts on those
23 securities.

24 (viii) Options for the purchase or sale of any of the securities,
25 currencies, contracts, or financial instruments described in clauses
26 (i) to (vii), inclusive.

27 (ix) Regulated futures contracts.

28 (B) "Qualifying investment securities" does not include an
29 interest in a partnership unless that partnership is itself an
30 investment partnership.

31 SEC. 25. Section 19322.1 is added to the Revenue and
32 Taxation Code, to read:

33 19322.1. (a) A claim for refund that is otherwise valid under
34 Section 19322, but that is made in the case in which payment of
35 the entire tax assessed or asserted has not been made, shall be a
36 claim only for purposes of tolling the time periods set forth in
37 Section 19306. For all other purposes (including the application of
38 Sections 19323, 19324, 19331, 19335, 19384, and 19385) the
39 claim shall be deemed filed on the date that full payment of the tax
40 is made. However, no credit or refund may be made or allowed for

1 any payment made more than seven years before the date that full
2 payment of the tax is made.

3 (b) This section shall apply to all claims for refund filed on or
4 after the effective date of the act adding this section, without regard
5 to taxable year.

6 SEC. 26. Section 19556 is added to the Revenue and Taxation
7 Code, to read:

8 19556. (a) The Franchise Tax Board may disclose to persons
9 described in paragraphs (1) to (4), inclusive, tax return and return
10 information solely for use in an action or proceeding affecting the
11 personnel rights of an employee or former employee, or in
12 preparation of the action or proceeding, but only to the extent the
13 Franchise Tax Board determines that the return or return
14 information is, or may be, relevant and material to the action or
15 proceeding. Tax return and return information may be disclosed
16 pursuant to this section to any of the following persons:

17 (1) An employee or former employee of the Franchise Tax
18 Board who is, or may be, a party to an administrative action or
19 proceeding affecting the personnel rights of that employee or
20 former employee.

21 (2) Upon written request by the employee or former employee,
22 to the employee's or former employee's duly authorized legal
23 representative.

24 (3) Officers and employees of the Franchise Tax Board for use
25 in any action or proceeding affecting the rights of an employee or
26 former employee, to the extent necessary to advance or protect the
27 interests of the State of California.

28 (4) An administrative law judge, administrative board
29 member, judge, or justice, or authorized officer or employee
30 thereof, in connection with an administrative hearing,
31 adjudication, or appeal thereof, related to an action or proceeding
32 affecting the personnel rights of an employee or former employee.

33 (b) For purposes of this section, an action or proceeding
34 affecting the personnel rights of an employee or former employee
35 of the Franchise Tax Board means an action proceeding arising
36 under either of the following:

37 (1) The State Civil Service Act (Part 2 (commencing with
38 Section 18500) of Division 5 of the Government Code).

39 (2) The Ralph C. Dills Act (Chapter 10.3 (commencing with
40 Section 3512) of Division 4 of Title 1 of the Government Code).

(c) Any unauthorized disclosure by a person described in paragraphs (1) to (4), inclusive, of subdivision (a) of any tax return or return information disclosed to that person pursuant to this section shall be subject to criminal penalty and civil liability under this part for that unauthorized disclosure.

SEC. 27. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term “tax” includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on S corporations imposed under Section 23802.

(2) The term “tax” does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term “tax” shall also include all of the following:

(1) The tax on limited partnerships, imposed under Section 17935 or Section 23081, the tax on limited liability companies, imposed under Section 17941 or Section 23091, and the tax on registered limited liability partnerships and foreign limited liability partnerships imposed under Section 17948 or Section 23097.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of S corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of S corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits shall be allowed against the “tax” in the following order:

(1) Credits that do not contain carryover provisions.

1 (2) Credits that, when the credit exceeds the “tax,” allow the
2 excess to be carried over to offset the “tax” in succeeding taxable
3 years, except for those credits that are allowed to reduce the “tax”
4 below the tentative minimum tax, as defined by Section 23455.
5 The order of credits within this paragraph shall be determined by
6 the Franchise Tax Board.

7 (3) The minimum tax credit allowed by Section 23453.

8 (4) Credits that are allowed to reduce the “tax” below the
9 tentative minimum tax, as defined by Section 23455.

10 (5) Credits for taxes withheld under Section 18662.

11 (d) Notwithstanding any other provision of this part, each of
12 the following shall be applicable:

13 (1) No credit shall reduce the “tax” below the tentative
14 minimum tax (as defined by paragraph (1) of subdivision (a) of
15 Section 23455), except the following credits:

16 (A) The credit allowed by former Section 23601 (relating to
17 solar energy).

18 (B) The credit allowed by former Section 23601.4 (relating to
19 solar energy).

20 (C) The credit allowed by Section 23601.5 (relating to solar
21 energy).

22 (D) The credit allowed by Section 23609 (relating to research
23 expenditures).

24 (E) The credit allowed by Section 23609.5 (relating to clinical
25 testing expenses).

26 (F) The credit allowed by Section 23610.5 (relating to
27 low-income housing).

28 (G) The credit allowed by former Section 23612 (relating to
29 sales and use tax credit).

30 (H) The credit allowed by Section 23612.2 (relating to
31 enterprise zone sales or use tax credit).

32 (I) The credit allowed by Section 23612.6 (relating to Los
33 Angeles Revitalization Zone sales tax credit).

34 (J) The credit allowed by former Section 23622 (relating to
35 enterprise zone hiring credit).

36 (K) The credit allowed by Section 23622.7 (relating to
37 enterprise zone hiring credit).

38 (L) The credit allowed by former Section 23623 (relating to
39 program area hiring credit).

1 (M) For each taxable year beginning on or after January 1,
2 1994, the credit allowed by Section 23623.5 (relating to Los
3 Angeles Revitalization Zone hiring credit).

4 (N) The credit allowed by Section 23625 (relating to Los
5 Angeles Revitalization Zone hiring credit).

6 (O) The credit allowed by Section 23633 (relating to targeted
7 tax area sales or use tax credit).

8 (P) The credit allowed by Section 23634 (relating to targeted
9 tax area hiring credit).

10 (Q) The credit allowed by Section 23649 (relating to qualified
11 property).

12 (2) No credit against the tax shall reduce the minimum
13 franchise tax imposed under Chapter 2 (commencing with Section
14 23101).

15 (e) Any credit which is partially or totally denied under
16 subdivision (d) shall be allowed to be carried over to reduce the
17 “tax” in the following year, and succeeding years if necessary, if
18 the provisions relating to that credit include a provision to allow
19 a carryover of the unused portion of that credit.

20 (f) Unless otherwise provided, any remaining carryover from
21 a credit that has been repealed or made inoperative shall continue
22 to be allowed to be carried over under the provisions of that section
23 as it read immediately prior to being repealed or becoming
24 inoperative.

25 (g) Unless otherwise provided, if two or more taxpayers share
26 in costs that would be eligible for a tax credit allowed under this
27 part, each taxpayer shall be eligible to receive the tax credit in
28 proportion to its respective share of the costs paid or incurred.

29 (h) Unless otherwise provided, in the case of an S corporation,
30 any credit allowed by this part shall be computed at the S
31 corporation level, and any limitation on the expenses qualifying
32 for the credit or limitation upon the amount of the credit shall be
33 applied to the S corporation and to each shareholder.

34 (i) (1) With respect to any taxpayer that directly or indirectly
35 owns an interest in a business entity that is disregarded for tax
36 purposes pursuant to Section 23038 and any regulations
37 thereunder, the amount of any credit or credit carryforward
38 allowable for any taxable year attributable to the disregarded
39 business entity shall be limited in accordance with paragraphs (2)
40 and (3).



1 (2) The amount of any credit otherwise allowed under this part,
 2 including any credit carryover from prior years, that may be
 3 applied to reduce the taxpayer's "tax," as defined in subdivision
 4 (a), for the taxable year shall be limited to an amount equal to the
 5 excess of the taxpayer's regular tax (as defined in Section 23455),
 6 determined by including income attributable to the disregarded
 7 business entity that generated the credit or credit carryover, over
 8 the taxpayer's regular tax (as defined in Section 23455),
 9 determined by excluding the income attributable to that
 10 disregarded business entity. No credit shall be allowed if the
 11 taxpayer's regular tax (as defined in Section 23455), determined
 12 by including the income attributable to the disregarded business
 13 entity is less than the taxpayer's regular tax (as defined in Section
 14 23455), determined by excluding the income attributable to the
 15 disregarded business entity.

16 (3) If the amount of a credit allowed pursuant to the section
 17 establishing the credit exceeds the amount allowable under this
 18 subdivision in any taxable year, the excess amount may be carried
 19 over to subsequent taxable years pursuant to subdivisions (d), (e),
 20 and (f).

21 (j) (1) Unless otherwise specifically provided, in the case of a
 22 taxpayer that is a partner or shareholder of an eligible pass-through
 23 entity described in paragraph (2), any credit passed through to the
 24 taxpayer in the taxpayer's first taxable year beginning on or after
 25 the date the credit is no longer operative may be claimed by the
 26 taxpayer in that taxable year, notwithstanding the repeal of the
 27 statute authorizing the credit prior to the close of that taxable year.

28 (2) For purposes of this subdivision, "eligible pass-through
 29 entity" means any partnership or S corporation that files its return
 30 on a fiscal year basis pursuant to Section 18566, and that is entitled
 31 to a credit pursuant to this part for the taxable year that begins
 32 during the last year a credit is operative.

33 (3) This subdivision shall apply to credits that become
 34 inoperative on or after the operative date of the act adding this
 35 subdivision.

36 SEC. 28. Section 23453 of the Revenue and Taxation Code is
 37 amended to read:

38 23453. (a) There shall be allowed as a credit against the
 39 regular tax (as defined by subdivision (c) of Section 23455), for



1 any taxable year, an amount equal to the minimum tax credit for
2 that taxable year.

3 (b) For purposes of subdivision (a), the minimum tax credit
4 shall be determined in accordance with Section 53 of the Internal
5 Revenue Code, except as otherwise provided in this part.

6 (c) For purposes of this chapter, the amount determined under
7 Section 53(c)(1) of the Internal Revenue Code shall be the regular
8 tax as defined by subdivision (c) of Section 23455, reduced by the
9 sum of the credits allowable under this part other than any credit
10 which reduces the tax below the tentative minimum tax, as defined
11 by Section 23455.

12 SEC. 29. ~~(a) The amendments made by this act to Sections~~
13 ~~17041, 17055, 17062, 17301, 17334, 17854, 17951, 17952,~~
14 ~~17952.5, 17953, 17954, and 17955 of, the additions made by this~~
15 ~~act of Sections 17051.5, 17301.3, 17301.4, 17301.5, 17304,~~
16 ~~17306, and 17307 to, and the repeal made by this act of Sections~~
17 ~~17303, 17310, and 17554 of, the Revenue and Taxation Code, shall~~
18 ~~apply to taxable years beginning on or after January 1, 2002.~~

19 ~~(b) In order to properly reflect the allowance of the alimony~~
20 ~~deduction for nonresidents, the amendments made by this act to~~
21 ~~Section 17302 of the Revenue and Taxation Code shall be applied~~
22 ~~to all claims and refunds, without regard to taxable year, for which~~
23 ~~the statute of limitations has not expired on the date that this act~~
24 ~~takes effect.~~

25 SEC. 30. No reimbursement is required by this act pursuant
26 to Section 6 of Article XIII B of the California Constitution
27 because the only costs that may be incurred by a local agency or
28 school district will be incurred because this act creates a new crime
29 or infraction, eliminates a crime or infraction, or changes the
30 penalty for a crime or infraction, within the meaning of Section
31 17556 of the Government Code, or changes the definition of a
32 crime within the meaning of Section 6 of Article XIII B of the
33 California Constitution.

34 _____
35 CORRECTIONS

36 Text — Pages 19,20.

37 _____
38

O

